IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

REVIEW PETITION NO. 108 OF 2007
IN
WRIT PETITION NO. 1518 OF 2005

The State of Maharashtra though
the Joint Director, Health Service
(Leprosy), Pune and another. ... Applicant.

V/s.

Shri Ramakant Pandurang Rede. ... Respondent.

V.A.Sonpal, Addl.Govt.Pleader for the applicants.

Ms.Seema Sarnaik, for the State.

CORAM: V.C.DAGA, J.

DATED: 5th October 2007.

P.C.:

. Heard learned Addl. Govt. Pleader for the applicants and Ms.Sarnaik for the respondent. Perused review petition, affidavits, counter affidavits and judgments circulated for consideration.

2. On being asked as to what was the evidence led by the department to prove that the Department of Health Service (Leprosy) is not an industry, learned Addl.G.P. could not point out any evidence muchless as to who was examined by the department in support of

their contentions.

3. The learned counsel appearing for the respondent drew my attention to para-18 of the order dated 29th July, 2003 passed by the Labour Court, Solapur in Complaint (ULP) No.272/2002 [*Mr.Ramakand P. Rede v. Joint Director Health Services (Leprosy) and anr*.]. The said para reads as under:

> "The complainant has narrated the nature of activities carried on the respondent Health Department (Leprosy) and also adduced evidence to that effect. Testified evidence of the complainant at Exh.u-9 reflect that the nature of work of respondent Health Department (Leprosy) is to find out Leprosy patients and to give them medical treatment. The are Rural as well as Urban Hospitals for giving treatments to Leprosy patients. Abovesaid activities of the respondent are systematically carried out since last about 50 years. Abovesaid evidence is not refuted in cross examination. Respondent has not adduced any evidence to the contrary. Learned advocate for the complainant cited and relied upon the Judgment of full Bench of Hon'ble Supreme Court in case of State of Bombay and others v/s. Hospital Mazdoor Sabha and other reported in 1960 (I) Mh.L.J. 252 wherein Hon'ble Lordships have dealt with the concept of Industry u/s. 2(J) of Industrial Disputes Act and have laid down undertaking or activity is an industry as defined and considered whether Hospital run by the Government is an industry and held that the definition of an industry u/s.2(J) of Industrial Disputes Act, 1947 is vide enough to cover the Hospital and so Hospital cannot be excluded from the definition."
>
> (Emphasis supplied)

4. Reading of the aforesaid para would unequivocally go to show that applicant department

(respondent therein) did not adduce any evidence contrary to the evidence led by the complainant. The Court below has already appreciated the said evidence and recorded its findings.

5. At this juncture, it will be relevant to mention that when writ petition was argued for admission, which came to be dismissed by this Court vide order dated 17th April, 2006, the question that the subject department was not 'industry' was neither raised nor argued by the petitioners. Hence there was no occasion for this Court to consider the same. By way of review no such contention can be allowed to be raised. No other issue or question other than those dealt with is raised in this petition during the course of oral submissions.

6. In the aforesaid view of the matter, no case is made out for considering this review petition.

7. In the result, review petition is dismissed in limine.

JUDGE